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7 **UNITED STATES DISTRICT COURT**  
8 **FOR THE EASTERN DISTRICT OF WASHINGTON**

9 UNITED STATES OF AMERICA ) 1:17CR02053-SAB-2  
10 ) 1:18CR02039-SAB-2  
11 Plaintiff, ) SENTENCING MEMORANDUM  
12 vs. )  
13 NICOLE LEE SUNNY CLOUD, )  
14 Defendant. )

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16 COMES NOW the defendant, Nicole Lee Sunny Cloud, by and through  
17 counsel, and submits the following sentencing memorandum asking the court to adopt  
18 the defendant's 84 month sentence recommendation. While the Government is  
19 seeking 105 months the defendant submits that the tragic history of her upbringing  
20 and her subservient role in the offenses warrant the 84 month recommendation. The  
21 defendant hopes that the court agrees that 84 months provides a reasonable sentence  
22 that is sufficient, but not greater than necessary, to comply with the purposes set forth  
23 in 18 U.S.C. 3553(a)(2), considering the other factors listed in 3553(a). Additionally,  
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1 there is a shared expectation for 60 months of community custody and the \$100  
2 special penalty assessments.

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5 MEMORANDUM

6 Nicole Lee Sunny Cloud has been in trouble since her birth. Initially, trouble  
7 consisted of extreme neglect from a drug addicted mother. She grew up in squalor  
8 and filth and learned to accept such a lifestyle. She was too young then to understand  
9 the disadvantages this caused and to this day does not recognize the damage that was  
10 done to her so early in her life. By the age of 8 Nicole's troubles also included a  
11 history of sexual abuse for which no counseling was provided. Substance abuse then  
12 began at an astoundingly young age and has continued for Nicole up to her arrest on  
13 these charges. The Cloud family was so dysfunctional that preteen marijuana and  
14 alcohol abuse was considered normal and was not in any meaningful way  
15 discouraged. Regular heroin use, opioid abuse and methamphetamine addiction  
16 predictably followed. Various stints in foster care did nothing to break the cycle.  
17 Without successful intervention and extensive counseling it is no wonder that Nicole  
18 has developed an extremely hard exterior persona on the one hand, but also an  
19 incredibly vulnerable affect to her family. Thus, she is capable of acting aggressive  
20 and tough in jail while being meek and utterly submissive to her brothers.  
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2 The defendant pled guilty to Misprison of Felony and Attempted Aggravated  
3 Sexual Abuse. The Misprison of Felony case has a statutory maximum of 36 months  
4 and is presumed concurrent with the Attempted Aggravated Sexual abuse disposition.  
5 The Attempted Aggravated Sexual abuse disposition has an extreme range of 235 –  
6 293 months. The plea agreement seeks to allow Nicole a more survivable disposition  
7 which recognizes her positive contributions and her potential as well as  
8 accommodating her horrific upbringing. The manipulation and domination by her  
9 brother in the Misprison case and Nicole's need to act tough and go along in jail have  
10 let Nicole get sucked into these situations that were not of her making. The lack of  
11 instigation in either case by Nicole should help the court understand that an 84  
12 month sentence achieves the purposes of the sentencing guidelines.  
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18 Individually addressing the 3553 factors confirms that an 84 month sentence is  
19 the right balance between appropriate and necessary punishment for two callous acts  
20 while recognizing that Nicole did not seek sexual gratification in the Attempted  
21 Aggravated Sexual abuse case or seek to have the act even occur at all.  
22 Unfortunately, in Nicole's mind when you are in the jail environment you go along to  
23 get along. If you are the strongest you simply take what you want. This is referred to  
24 as "prison rules," which to Nicole is all too familiar. This remains true even if you  
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1 don't like what you are asked to do. For Nicole in this environment acting tough and  
2 strong trumped her feelings that these actions were wrong. She clearly recognizes  
3 how wrong she was and will attempt to express these feelings to the court<sup>1</sup>.  
4

5 An 84 month sentence would strongly punish these actions of a less culpable  
6 accomplice. Nobody should ever consider 7-9 years in prison as a slap on the wrist  
7 for someone from Nicole's background. Respect for the law is maintained while  
8 some real level of compassion is expressed.  
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10 The defendant in this case is looking for opportunities to benefit herself while  
11 incarcerated including RDAP if available. There is no doubt that counseling and  
12 other services are also desperately needed. 84 months would provide sufficient time  
13 for Nicole to fully benefit from any services available, it would also let her complete  
14 her sentence while still being young enough to utilize what she has learned. While  
15 she sees her prospects as bleak, she is intelligent enough to do well upon release if  
16 given the proper tools. Requirements of offender registration and felony convictions  
17 will clearly be obstacles, but with proper direction she has solid potential. Her past  
18 has been one of misplaced loyalty. Both of these cases reflect that. Going forward it  
19 should be hoped that her capacity for genuine loyalty will become an asset instead of  
20 a liability.  
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26 <sup>1</sup> Nicole is not comfortable expressing her feelings and she fears that in court she may have difficulty. This may  
27 manifest as apparent glibness or even giggles. She will try to maintain an appropriate demeanor.  
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2 Respectfully submitted January 6th, 2020.  
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4 s/Ulvar W. Klein

5 ULVAR W. KLEIN, WSBA 24334

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15 CERTIFICATE OF SERVICE

16 I hereby certify that on January 6, 2020, I electronically filed the foregoing  
17 with the Clerk of the Court using the CM/ECF System which will send notifications  
18 of such filing to AUSA Thomas Hanlon.  
19

20 s/ Marcie Rivera

21 Marcie Rivera

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